HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO. 554 OF 2005

BETWEEN

Yerramilli Vijaya Lakshmi W/o Yerramili Venkata Chalam aged 40 years.

……petitioner

Vs.

Sri Sindunari Suresh Babu, S/o Krishnaiah aged 45 years and two others.

…..Respondents

HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO. 554 OF 2005

ORAL ORDER: **(per the Hon'ble Sri Justice B. PRAKASH RAO)**

Heard both sides.

The petitioner herein is the applicant before the Principal District Judge, Ranga Reddy District at L.B.Nagar, who filed this Writ Petition inter alia, seeking Writ of Mandamus, challenging the orders in an interlocutory application filed I.A.No. 1838 of 2004 in LGOP No. 80 of 2004 dismissing the application by an order dated 4.11.2004 under Order 26 Rule 9 of CPC, seeking to appoint a Commissioner for local inspection and submit a report.

After having gone into the matter though the application has been contested by the petitioner herein by filing a detailed counter affidavit, the court below in a very swish and swash manner and on a laconic approach dismissed the application filed on the ground that since the other connected application has been disposed of in I.A.No. 317 of 2004, which is filed under Order 39 Rules 1 and 2 of CPC and therefore, applying the very same observation, the present application has also been dismissed.

On the face of it, the very approach of the court below is not correct, the application filed stands on its own and the same is filed for different relief. Therefore, it has to be considered in a proper perspective. On the facts and circumstances of the case, if it is made out by the petitioner to make any such local inspection and also after taking into consideration the objections if any filed on behalf of the respondents herein, the court below can pass orders by giving reasons but the court below has not mentioned any reasons

while passing the orders.

In view of the above, the Writ Petition is allowed and the matter is remitted back to the court below for disposal on merits in accordance with law after affording an opportunity to both sides.

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B. PRAKASH RAO, J

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G. BHAVANI PRASAD, J

Date: 3.09.2007

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